



Substitute Senate Bill No. 891

Public Act No. 09-229

AN ACT CONCERNING MILK PRODUCERS, MILK AND MILK PRODUCTS, AGRICULTURAL NOT-FOR-PROFIT ORGANIZATIONS AND THE MODERNIZATION OF CONNECTICUT FERTILIZER LAW.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 22-111a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

This chapter shall be known as the "Connecticut Fertilizer Law of 2008".

Sec. 2. (NEW) (*Effective July 1, 2009*) Except as otherwise specified in sections 22-111a to 22-111j, inclusive, of the general statutes, as amended by this act, 22-111l to 22-111q, inclusive, of the general statutes, as amended by this act, and sections 2, 3, 9, 10, 13, 15 and 22 of this act, the provisions of said sections shall be administered and enforced by the Commissioner of Agriculture or by such commissioner's duly authorized agent.

Sec. 3. (NEW) (*Effective July 1, 2009*) All special acts and municipal ordinances or regulations contrary to or inconsistent with the provisions of this act are superseded and shall be of no force or effect. No political subdivision of the state shall enact or attempt to enforce

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any ordinance or regulation respecting the registration, packaging, labeling, sale, storage, distribution, use or application of a fertilizer, as defined in section 22-111b of the general statutes, as amended by this act.

Sec. 4. Section 22-111b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

When used in this chapter:

[(a) "Commercial fertilizer" means any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes and gypsum;

(b) "Specialty fertilizer" means a commercial fertilizer distributed primarily for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses and nurseries;

(c) "Bulk fertilizer" means a commercial fertilizer distributed in a nonpackaged form;

(d) "Brand" means a term, design or trademark used in connection with one or several grades of commercial fertilizer;

(e) (1) Until July 1, 1967, and thereafter until the Commissioner of Agriculture prescribes the alternative form in accordance with the provisions of subdivision (2) hereof, "guaranteed analysis" means the minimum percentage of plant nutrients claimed in the following order and form:

(A) Total Nitrogen (N)	per cent
Available Phosphoric Acid (P ₂ O ₅)	per cent

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Soluble Potash (K_2O) per cent;

(B) For unacidulated mineral phosphatic materials and basic slag, both total and available phosphoric acid and the degree of fineness. For bone, tankage and other organic phosphatic materials, total phosphoric acid;

(C) Guarantees for plant nutrients other than nitrogen, phosphorus and potassium may be permitted or required by regulation of the commissioner. The guarantees for such other nutrients shall be expressed in the form of the element. The sources of such other nutrients, such as oxides, salt, chelates, etc., may be required to be stated on the application for registration and may be included as a parenthetical statement on the label. Other important beneficial or harmful substances or compounds, determinable by laboratory methods also may be guaranteed by provision of the director and commissioner, acting jointly. When any plant nutrients or other substances or compounds are guaranteed, they shall be subject to inspection and analysis in accord with the methods and regulations prescribed by the director.

(2) At any time after July 1, 1967, when the commissioner finds, after public hearing following due notice, that the requirement for expressing the guaranteed analysis of phosphorus and potassium in elemental form would not impose an economic hardship on distributors and users of fertilizer by reason of conflicting labeling requirements among the states, he may require by regulation thereafter that the guaranteed analysis shall be in the following form:

Total Nitrogen (N) per cent
Available Phosphoric Acid (P) per cent
Soluble Potash (K) per cent

provided the effective date of such regulation shall be not less than six

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months following the issuance thereof, and provided, for a period of two years following the effective date of such regulation, the equivalent of phosphorus and potassium may also be shown in the form of phosphoric acid and potash; provided, after the effective date of a regulation issued under the provisions of this section, requiring that phosphorus and potassium be shown in the elemental form, the guaranteed analysis for nitrogen, phosphorus and potassium shall constitute the grade;

(f) "Grade" means the percentages of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or soluble potash stated in whole numbers in the same terms, order and percentages as in the guaranteed analysis;

(g) "Official sample" means any sample of commercial fertilizer taken by the commissioner or his agent and designated as official by the commissioner;

(h) "Ton" means a net weight of two thousand pounds avoirdupois;

(i) "Per cent" or "percentage" means the percentage by weight;

(j) "Person" includes individual, partnership, association, firm, limited liability company and corporation;

(k) "Distributor" means any person who imports, consigns, manufactures, produces, compounds, mixes or blends commercial fertilizer, or who offers for sale, barter or otherwise supplies commercial fertilizer in this state;

(l) "Registrant" means the person who registers commercial fertilizer under the provisions of this chapter;

(m) "Director" means the director of the Connecticut Agricultural Experiment Station;

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(n) "Commissioner" means the Commissioner of Agriculture.]

(1) "Fertilizer" means any substance containing one or more recognized plant nutrients, which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth. Fertilizer does not include unmanipulated animal and vegetable manures, marl, lime, limestone, wood, ash and other products exempted by regulations adopted by the commissioner pursuant to section 22-111j, as amended by this act.

(2) "Fertilizer material" means a fertilizer which: (A) Contains important quantities of not more than one of the primary plant nutrients nitrogen, phosphate or potash, or (B) has not less than eighty-five per cent of its plant nutrient content present in the form of a single chemical compound, or (C) is derived from a plant or animal residue, by-product or natural material deposit which has been processed in a manner that results in its content of plant nutrients not having been materially changed, except by purification and concentration.

(3) "Mixed fertilizer" means a fertilizer containing any combination or mixture of fertilizer materials.

(4) "Specialty fertilizer" means a fertilizer distributed for nonfarm use.

(5) "Bulk fertilizer" means a fertilizer distributed in a nonpackaged form.

(6) "Brand" means a term, design or trademark used in connection with one or more grades of fertilizer.

(7) "Guaranteed analysis" means the minimum percentage of plant nutrients claimed in the following order and form:

(A) Total Nitrogen (N) per cent

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(B) Available Phosphate (P₂O₅) per cent

(C) Soluble Potash (K₂O) per cent

(8) "Grade" means the percentage of total nitrogen, available phosphate and soluble potash, stated in whole numbers in the same terms, order and percentages as in the guaranteed analysis.

(9) "Official sample" means any sample of fertilizer taken by the commissioner or the commissioner's duly authorized agent and designated as such by the commissioner.

(10) "Ton" means a net weight of two thousand pounds avoirdupois.

(11) "Primary nutrient" means total nitrogen, available phosphate or soluble potash.

(12) "Per cent" or "percentage" means percentage by weight.

(13) "Person" means an individual, partnership, association, firm, corporation, limited liability company or other entity.

(14) "Distribute" means to import or consign or to offer for sale, sell, barter or otherwise supply fertilizer to any person in this state.

(15) "Distributor" means any person who distributes fertilizer.

(16) "Registrant" means a person who registers fertilizer pursuant to this act.

(17) "Label" means the display of all written, printed or graphic matter on a fertilizer container or a written statement accompanying a fertilizer.

(18) "Labeling" means all written, printed or graphic matter upon or accompanying any fertilizer, or advertisements, brochures, posters, television or radio announcements and Internet web site content used

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in promoting the sale of any fertilizer.

(19) "Investigational allowance" means an allowance for variations inherent in the taking, preparation and analysis of an official sample of fertilizer.

(20) "Deficiency" means the amount of nutrient found by analysis that is less than the guaranteed analysis.

(21) "Blender" means any person or system engaged in the business of blending fertilizer through the use of mobile or fixed equipment.

(22) "Blending" means the physical mixing or combining of the following to produce a uniform mixture: (A) One or more fertilizer materials and one or more filler materials, (B) two or more fertilizer materials, or (C) two or more fertilizer materials and filler materials, including mixing through the simultaneous or sequential application of any combination of materials listed in this subsection.

(23) "Application" means the process of placement or usage of fertilizer onto a targeted growing area.

(24) "Director" means the director of the Connecticut Agricultural Experiment Station.

(25) "Commissioner" means the Commissioner of Agriculture.

Sec. 5. Section 22-111c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(a) Each brand and grade of [commercial] fertilizer shall be registered in the name of the person whose name appears on the label for such fertilizer before being distributed in this state. The application for registration shall be submitted to the commissioner on a form furnished by the commissioner and shall be accompanied by a fee of [fifteen] seventy-five dollars. [per major and minor element for each

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brand and grade listed on the application form, provided the cost for each registration shall not exceed ninety dollars per individual product.] On and after January 1, [1993] 2010, said fee shall be established by the commissioner by regulations adopted in accordance with the provisions of [chapter 54] section 22-111j, as amended by this act. The application shall include the following information: (1) The net weight; (2) the brand and grade; (3) the guaranteed analysis; and (4) the name and address of the registrant. [; (5) the sources from which the nitrogen, phosphorus and potassium are derived.] Upon approval of the application by the commissioner, a copy of the registration shall be furnished to the applicant. All registrations shall expire on June thirtieth of each year.

(b) A distributor shall not be required to register any [brand of commercial] fertilizer which is already registered under this chapter by another person, provided the label for such exempted fertilizer does not differ in any material respect to such previously registered fertilizer.

(c) A distributor shall not be required to register [a commercial] fertilizer formulated according to specifications which are furnished by a consumer prior to mixing; but shall be required to label such fertilizer as provided in subsection (c) of section 22-111d, as amended by this act.

Sec. 6. Section 22-111d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(a) Any [commercial] fertilizer distributed in this state in containers shall have placed on or affixed to the container a label setting forth in clearly legible and conspicuous form the following information: [required by subdivisions (1), (2), (3) and (4) of subsection (a) of section 22-111c] (1) Net weight, (2) brand and grade, provided the grade shall not be required when no primary nutrients are claimed, (3) guaranteed

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analysis, (4) the name and address of the registrant, and (5) directions for use for fertilizer distributed to the end user.

(b) If the fertilizer is distributed in bulk shipments, a written or printed statement of the information required by [said subdivisions] subsection (a) of this section shall accompany delivery and be supplied to the purchaser at the time of delivery.

(c) A [commercial] fertilizer formulated according to specifications which are furnished by or for a consumer prior to mixing shall be labeled to show the net weight, guaranteed analysis and the name and address of the applicable distributor or registrant.

Sec. 7. Section 22-111e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(a) [The commissioner shall adopt regulations in accordance with the provisions of chapter 54 establishing] Each distributor shall pay to the commissioner an inspection fee for all [commercial] fertilizer distributed to nonregistrants in this state [, provided the minimum fee shall be not less than] of twenty-five cents per ton, [and provided further, sales] with a minimum inspection fee of ten dollars. Sales to manufacturers or exchanges between them and sales by distributors [of less than ten tons in any annual period provided for in subsection (b) of this section] are exempted. Fees so collected shall be used for the payment of the costs of inspection, sampling and analysis and other expenses necessary for the administration of this chapter.

(b) Every person who distributes [a commercial] fertilizer in this state shall: File with the commissioner, on forms furnished by the commissioner, an annual statement for the period ending June thirtieth setting forth the number of net tons of each [commercial] fertilizer distributed in this state during such [annual] period. Such report shall be due on or before the [fifteenth] thirtieth day of the month following

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the close of each annual period and shall be accompanied by the inspection fee established pursuant to subsection (a) of this section. If the tonnage report is not filed, and the payment of the inspection fee is not made [.] within sixty days after the end of the annual period, a collection fee amounting to ten per cent of the amount, but not less than ten dollars, shall be assessed against the registrant and may be collected in a legal action against the registrant.

(c) When more than one person is involved in the distribution of a [commercial] fertilizer, the last person who has the fertilizer registered and who distributes to a nonregistered dealer or consumer shall be responsible for reporting the tonnage and paying the inspection fee, unless the report and payment have been previously made by a prior distributor of the fertilizer.

Sec. 8. Section 22-111f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(a) For the purpose of the enforcement of the provisions of this chapter or any regulation adopted by the commissioner pursuant to section 22-111j, as amended by this act, the commissioner or [his] the commissioner's authorized agent, upon presenting appropriate credentials, [is authorized (1) to enter, during normal business hours,] may: (1) Enter any factory, warehouse or establishment within the state in which [commercial] fertilizers are manufactured, processed, packed or held for distribution, [or to] (2) enter any vehicle being used to transport or hold such fertilizers, and [(2) to inspect at reasonable times and within reasonable limits and in a reasonable manner,] (3) inspect such factory, warehouse, establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers and labeling therein.

(b) The commissioner, [who may act through his] or the commissioner's authorized agent, shall sample and inspect

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[commercial] fertilizers distributed within this state at such times and places and to such extent as [he] the commissioner may deem necessary to determine whether such [commercial] fertilizers are in compliance with the provisions of this chapter or any regulation adopted by the commissioner pursuant to section 22-111j, as amended by this act. The commissioner, individually or through [his] the commissioner's duly authorized agent, is authorized to enter upon any public or private premises or carriers [during regular business hours] in order to have access to [commercial] fertilizers subject to the provisions of this chapter and [the rules and regulations pertaining thereto] any regulations adopted by the commissioner pursuant to section 22-111j, as amended by this act. The director or [his] the director's agent shall analyze samples designated official by the commissioner.

(c) The methods of analysis and sampling shall be those adopted by the [director and commissioner from recognized authorities such as the Journal of the] Association of Official Analytical Chemists International.

(d) The commissioner, in determining for administrative purposes whether any [commercial] fertilizer is deficient in plant food, shall be guided solely by the official sample obtained and analyzed as provided for in this section.

(e) The results of official analysis shall be forwarded by the director to the commissioner, registrant and distributor. Upon request, the director shall furnish to the registrant a portion of any sample found subject to penalty or other legal action. Official samples for which penalties are assessed for nutritional deficiencies shall be retained by the director for not less than ninety days following the issuance of a deficiency report.

[(f) If the analysis provided for in this section shows that any

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commercial fertilizer falls short of the guaranteed analysis in any one or more ingredients, a penalty shall be assessed in accordance with the following provisions: (1) For less than the minimum of total nitrogen, available phosphoric acid, soluble potash, three times the value of the deficiency of any one or more of said ingredients should such deficiency exceed the official investigational allowances as provided in regulations adopted by the commissioner and (2) for less than the minimum in any other constituent covered under subdivision (1) of subsection (e) of section 22-111b, which the registrant is required to or may guarantee, three times the value of the deficiency of such constituent should such deficiency exceed the official investigational allowance as provided in regulations adopted by the commissioner.

(g) All penalties assessed under this section shall be paid to the consumer of the lot of commercial fertilizer represented by the sample analyzed within three months after the date of notice from the commissioner to the registrant. Receipts shall be taken therefor and promptly forwarded to the commissioner. If such consumers cannot be found, the amount of the penalty shall be paid to the commissioner who shall remit the money to the State Treasurer for deposit in the General Fund. The provisions of this section shall apply only to purchases of one ton or more of fertilizer.

(h) For the purpose of determining the commercial value of any commercial fertilizer to be applied under the provisions of this section the commissioner shall determine and publish annually the values per unit of nitrogen, available phosphoric acid and soluble potash in commercial fertilizers in this state. If guarantees are as provided in subdivision (2) of subsection (e) of section 22-111b, the value shall be per unit of nitrogen, phosphorus and potassium. The values so determined and published shall be used in determining and assessing penalties.]

Sec. 9. (NEW) (*Effective July 1, 2009*) (a) For unacidulated mineral

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phosphatic material and basic slag, bone, tankage and other organic phosphatic materials, the total phosphate and degree of fineness may be guaranteed. Guarantees for plant nutrients other than nitrogen, phosphorus and potassium shall comply with the provisions of this act and with regulations adopted by the commissioner pursuant to section 22-111j of the general statutes, as amended by this act. Guarantees for other nutrients shall be expressed in the form of the primary element of such other nutrient. The commissioner may require the source of other nutrients, including, but not limited to, oxides, salts and chelates, to be stated on the product label and application for registration. Other beneficial substances or compounds, determinable by laboratory methods, may be guaranteed by permission of the commissioner and with the advice of the director. Any guaranteed plant nutrients or other substances or compounds shall be subject to inspection and analysis in accordance with regulations adopted by the commissioner pursuant to section 22-111j of the general statutes, as amended by this act. Specialty fertilizers may be guaranteed in fractional units of not greater than one per cent of total nitrogen, available phosphate, soluble potash, fertilizer materials, bone meal and manures and similar materials may be guaranteed in fractional units.

(b) If analysis shows a fertilizer is deficient in one or more of its guaranteed primary plant nutrients beyond the investigational allowances and compensations as established by this act or by any regulation adopted by the commissioner pursuant to section 22-111j of the general statutes, as amended by this act, a penalty payment of three times the value of such deficiency shall be assessed by the commissioner against the violator.

(c) All penalties assessed by the commissioner pursuant to this section shall be paid by the registrant to the consumer of the lot of fertilizer represented by the sample analyzed not later than three months after the date of notice from the commissioner to the registrant.

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If the commissioner is unable to locate or identify such consumer, such penalty payments shall be paid to the commissioner, who shall deposit the same into the General Fund. If the commissioner finds upon satisfactory evidence that a person has altered the content of fertilizer supplied to him or her by a registrant, or to have mixed or commingled fertilizer from two or more suppliers such that the result of either alteration changes the analysis of the fertilizer as originally guaranteed, the commissioner shall require such person to obtain a registration and such person shall be held liable for all applicable penalty payments and be subject to any other applicable provisions of this act or any regulation adopted by the commissioner pursuant to section 22-111j of the general statutes, as amended by this act, including, but not limited to, seizure, condemnation and a stop sale order by the commissioner.

(d) A deficiency in an official sample of mixed fertilizer resulting from nonuniformity shall not be distinguishable from a deficiency due to actual plant nutrient shortage and shall be subject to action by the commissioner pursuant to sections 22-111a to 22-111j, inclusive, of the general statutes, as amended by this act, 22-111l to 22-111q, inclusive, of the general statutes, as amended by this act, and sections 2, 3, 9, 10, 13, 15 and 22 of this act.

(e) Nothing contained in this section shall prevent any person from commencing an action in Superior Court for damages or penalty payments relating to fertilizer or fertilizer material.

Sec. 10. (NEW) (*Effective July 1, 2009*) The commissioner shall determine and publish annually the values per unit of nitrogen, available phosphate and soluble potash in fertilizers in this state, for purposes of determining the commercial value to be applied pursuant to sections 22-111a to 22-111j, inclusive, of the general statutes, as amended by this act, 22-111l to 22-111q, inclusive, of the general statutes, as amended by this act, and sections 2, 3, 9, 10, 13, 15 and 22

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of this act. Such determined and published values shall be used by the commissioner in determining and assessing penalty payments pursuant to sections 22-111a to 22-111j, inclusive, of the general statutes, as amended by this act, 22-111l to 22-111q, inclusive, of the general statutes, as amended by this act, and sections 2, 3, 9, 10, 13, 15 and 22 of this act.

Sec. 11. Section 22-111g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

[A commercial fertilizer is misbranded if it carries a false or misleading statement on the container or on the label attached to the container, or if false or misleading statements concerning the fertilizer are disseminated in any manner or by any means. No person shall distribute a misbranded fertilizer.]

No person shall distribute misbranded fertilizer. A fertilizer shall be misbranded if: (1) The labeling for such fertilizer is false or misleading, (2) the fertilizer is distributed under the name of another fertilizer product, (3) the fertilizer is not labeled pursuant to section 22-111d, as amended by this act, and in accordance with regulations adopted by the commissioner pursuant to section 22-111j, as amended by this act, or (4) such fertilizer is represented as a fertilizer or is represented as containing a plant nutrient or fertilizer, unless such plant nutrient or fertilizer conforms to the definition of identity, if any, prescribed by regulations adopted by the commissioner pursuant to section 22-111j, as amended by this act.

Sec. 12. Section 22-111h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

[(a) Each person registering commercial fertilizers under this chapter shall furnish the commissioner with a confidential written statement of the tonnage of each grade of commercial fertilizer sold by

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him in this state for the annual period ending June thirtieth. No information furnished under this section shall be disclosed in such a way as to divulge the operation of any person.

(b) When more than one person is involved in the distribution of a commercial fertilizer, the last person who has the fertilizer registered and who distributes to a nonregistered dealer or consumer shall be responsible for reporting the tonnage and paying the inspection fee, unless the reporting and paying of fees have been made by a prior distributor of the fertilizer.]

(a) Any person who distributes or sells fertilizer to a nonregistrant shall furnish the commissioner with a written report detailing: (1) The county of the consignee of such fertilizer, (2) the amount, in tons or fractions thereof, of each grade of such fertilizer, and (3) the form in which such fertilizer was distributed, including, but not limited to, bags, bulk or liquid. Such written report shall be submitted to the commissioner not later than the thirtieth day of July for distributions or sales made by such person during the preceding twelve months.

(b) Except for law enforcement purposes or as otherwise required by law, the commissioner shall not disclose to a third party any individual identifying information concerning a person who has submitted a report pursuant to subsection (a) of this section.

Sec. 13. (NEW) (*Effective July 1, 2009*) No person shall distribute an adulterated fertilizer. A fertilizer shall be considered adulterated if the commissioner determines: (1) Such fertilizer contains any deleterious or harmful substance in sufficient amounts to render it injurious to beneficial plant life, animals, humans, aquatic life, soil or water when applied in accordance with directions for use on the label for such fertilizer, (2) the label for such fertilizer does not contain adequate warning statements or directions for use necessary to protect plant life, animals, humans, aquatic life, soil or water, (3) the composition of such

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fertilizer falls below or differs from that displayed on the label for such fertilizer, or (4) such fertilizer contains unwanted crop or weed seed.

Sec. 14. Section 22-111i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

The director shall publish at least annually and in such forms as he or she may deem proper: [(a)] (1) Information concerning the distribution of [commercial] fertilizers and [(b)] (2) results of analyses based on official samples of [commercial] fertilizers distributed within the state as compared with the analyses guaranteed under sections 22-111c, as amended by this act, and 22-111d, as amended by this act.

Sec. 15. (NEW) (*Effective July 1, 2009*) (a) Bulk fertilizers shall be stored in a manner that minimizes the release of such fertilizers and protects the environment.

(b) Fertilizer use and application shall comply with best management practices and with regulations adopted by the commissioner pursuant to section 22-111j of the general statutes, as amended by this act.

Sec. 16. Section 22-111j of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

[For the enforcement of this chapter, the commissioner is authorized to prescribe and, after public hearing following due public notice, to enforce such regulations relating to the distribution of commercial fertilizers as he may find] The commissioner shall adopt regulations regarding fertilizer, in accordance with the provisions of chapter 54, as the commissioner finds necessary to carry into effect the full intent and meaning of this chapter.

Sec. 17. Section 22-111l of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

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The commissioner may [cancel] revoke, refuse or suspend the registration of any brand of [commercial] fertilizer or refuse to register any brand of [commercial] fertilizer as herein provided, upon satisfactory evidence that the registrant or applicant for registration has violated any provision of this chapter or has used fraudulent or deceptive practices in the evasion or attempted evasion of the provisions of this chapter or any regulations [promulgated] adopted thereunder; provided no registration shall be revoked, [or] refused or suspended until the registrant has been given the opportunity to appear for a hearing by the commissioner or the commissioner's designee.

Sec. 18. Section 22-111m of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

The commissioner may issue and enforce a written or printed "stop sale, use or removal" order to the owner or custodian of any lot of [commercial] fertilizer to hold such fertilizer at a designated place when the commissioner finds such [commercial] fertilizer is being offered or exposed for sale in violation of any provision of this chapter or any regulation adopted by the commissioner pursuant to section 22-111j, as amended by this act, until the [law has] provisions of this act or any such regulation have been complied with and such [commercial] fertilizer is released in writing by the commissioner or such violation has been otherwise legally disposed. The commissioner shall release the [commercial] fertilizer so withdrawn when the requirements of the provisions of this chapter or any regulation adopted by the commissioner pursuant to section 22-111j, as amended by this act, have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid. The owner or custodian of any lot of fertilizer, who has been issued a stop sale, use or removal order pursuant to this section, shall be given the opportunity to appear for a hearing by the commissioner or the commissioner's designee.

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Sec. 19. Section 22-111n of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

Any [lot of commercial] fertilizer not in compliance with the provisions of this chapter or any regulation adopted pursuant to section 22-111j, as amended by this act, shall be subject to seizure [on complaint of] by the commissioner. [to a court of competent jurisdiction in the area in which such commercial fertilizer is located.] If, after seizure, the [court] commissioner finds such [commercial] fertilizer to be in violation of this chapter or any regulation adopted pursuant to section 22-111j, as amended by this act, and orders the condemnation of such [commercial] fertilizer, it shall be disposed of in any manner consistent with the quality of the [commercial] fertilizer and the laws of the state; provided in no instance shall the disposition of such [commercial] fertilizer be ordered by the [court] commissioner without first giving the claimant an opportunity [to apply to] for a hearing by the [court] commissioner or the commissioner's designee for release of such [commercial] fertilizer or for permission to process or relabel such [commercial] fertilizer to bring it into compliance with this chapter or any regulation adopted pursuant to section 22-111j, as amended by this act.

Sec. 20. Section 22-111o of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(a) If it appears from the examination of any [commercial] fertilizer that any provision of this chapter or [the regulations issued thereunder] any regulation adopted pursuant to section 22-111j, as amended by this act, has been violated, the commissioner shall cause notice of the violation to be given to the registrant, distributor or possessor from whom the sample was taken. Any person so notified shall be given opportunity to be heard [under such regulations as may be prescribed] by the commissioner. If it appears after such hearing, either in the presence or absence of the person so notified, that any [of

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the provisions] provision of this chapter or [rules and regulations issued thereunder have] any regulation adopted pursuant to section 22-111j, as amended by this act, has been violated, [the commissioner may certify the facts to the prosecuting officer having jurisdiction] such person shall be fined not more than five hundred dollars for each such violation.

[(b) Any person convicted of violating any provision of this chapter or any regulation issued thereunder shall be fined not more than five hundred dollars.

(c) Nothing in this chapter shall be construed as requiring the commissioner or his representative to report for prosecution or for the institution of seizure proceedings minor violations of this chapter when he believes that the public interests will be best served by a suitable notice of warning in writing.

(d) Each prosecuting officer to whom any violation is reported shall cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.]

[(e)] (b) The commissioner may apply for and any court of competent jurisdiction may grant a temporary or permanent injunction restraining any person from violating or continuing to violate any provision of this chapter or any regulation [promulgated thereunder] adopted pursuant to section 22-111j, as amended by this act, notwithstanding the existence of other remedies at law. Such injunction shall be issued without bond.

Sec. 21. Section 22-111p of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

Nothing in this chapter shall be construed to restrict or avoid sales or exchanges of [commercial] fertilizers between importers, manufacturers or manipulators who mix fertilizer materials for sale or

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to prevent the free and unrestricted shipments of [commercial] fertilizer to manufacturers or manipulators who have registered their brands as required by the provisions of this chapter or any regulation adopted pursuant to section 22-111j, as amended by this act.

Sec. 22. (NEW) (*Effective July 1, 2009*) The commissioner may cooperate with and enter into agreement with governmental agencies of this state, other states and agencies of the federal government in order to carry out the purpose and provisions of sections 22-111a to 22-111j, inclusive, of the general statutes, as amended by this act, 22-111l to 22-111q, inclusive, of the general statutes, as amended by this act, and sections 2, 3, 9, 10, 13, 15 and 22 of this act, or any regulation adopted pursuant to section 22-111j of the general statutes, as amended by this act.

Sec. 23. Section 22-127 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

The terms defined in this section shall, as used in this chapter, have the meanings set forth in this section unless otherwise clearly indicated in the context.

(1) "Adulterated" means any milk, milk product, retail raw milk or cheese: (A) Which bears or contains any poisonous or deleterious substance which may render it injurious to health, provided if the substance is not an added substance, such milk, milk product, retail raw milk or cheese shall not be considered adulterated if the quantity of such substance in such milk, milk product, retail raw milk or cheese would not ordinarily render it injurious to health, (B) which bears or contains any added poisonous or added deleterious substance which is unsafe, (C) which consists in whole or in part of any diseased, contaminated, filthy, putrid or decomposed substance or is otherwise unfit for food, (D) which has been produced, prepared, packed or held under insanitary conditions whereby it may have become

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contaminated with filth or may have been rendered diseased, unwholesome or injurious to health, or (E) whose packaging or container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

[(1)] (2) "Bulk tank unit" means a dairy farm or group of dairy farms from which raw milk is collected for pasteurization for which a single entity sanitation compliance rating is issued.

[(2)] (3) "Commissioner" means the Commissioner of Agriculture.

[(3)] (4) "Cheese manufacturer" means any person, firm, corporation or cooperative association engaged in the production, receiving or handling of milk or milk products, which milk products, in whole or in part, are intended to be manufactured into cheese for distribution or sale in or outside this state.

[(4)] (5) "Dealer" means any person, firm, corporation or cooperative association engaged in the receiving, handling, purchasing, distribution or sale of fluid milk or milk products, which fluid milk or milk products, in whole or in part, are intended for bottling, manufacturing, processing, distribution or sale in this state.

[(5)] (6) "Filled milk" means any combination of nonmilk fat or oil and milk, whether or not it is fresh, cultured, reconstituted or modified by the addition of nonfat milk solids, with or without milkfat, so that the product, including stabilizers, emulsifiers or flavoring, resembles milk or any other fluid milk product, and contains less than six per cent nonmilk fat or oil.

[(6)] (7) "Handler" means any person, firm, corporation or cooperative association engaged in the receiving, handling, distribution or sale of fluid milk or milk products, which fluid milk or milk products, in whole or in part, are intended for bottling,

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manufacturing, processing, distribution or sale in this state.

(8) "Misbranded" means the use of any label, written or printed advertising or graphic upon or accompanying a product or container of milk, milk products or cheese, including, but not limited to, signs, electronic displays, electronic communication, placards or other means of communication intended to provide information to consumers, which is false or misleading or which violates any applicable municipal, state or federal labeling requirement.

[(7)] (9) "Nonstandardized milk products" means milk-based products modified so they do not meet the definition of optional ingredients established in 21 CFR 131.110, contain milk and milk products, are intended to replace or be a substitute for standardized fluid milk products. Nonstandardized milk products may contain safe and suitable ingredients not present in standardized milk products.

[(8)] (10) "Pasteurization" or "pasteurized" has the same meaning, as defined in section 1 of the Pasteurized Milk Ordinance as promulgated by the United States Food and Drug Administration.

[(9)] (11) "Producer" means any person, firm or corporation that operates a dairy farm that provides, sells or offers milk to any dealer, person, handler, company or cooperative for sale.

[(10)] (12) "Public eating places" means places where meals are served to the general public, including, but not limited to, public or private schools and colleges, hotels, restaurants, clubs, lunchrooms, bars, fountains or any place of public entertainment.

[(11)] (13) "Raw milk" or "milk for pasteurization" means normal lacteal secretion that is practically free of colostrum and that is obtained by the complete milking of one or more healthy hooved mammals.

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[(12)] (14) "Raw milk cheese" means aged hard cheese that meets the sanitary provisions of this chapter and that is produced from retail raw milk.

[(13)] (15) "Retail raw milk" means normal lacteal secretion that is practically free of colostrum, that is obtained by the complete milking of one or more healthy goats, sheep or cows, that is intended for human consumption in the unpasteurized state and that meets the sanitary standards of this chapter.

[(14)] (16) "Retail raw milk producer" means any person, firm, corporation or cooperative association engaged in the production, handling, distribution or sale of retail raw milk.

[(15)] (17) "Retail raw milk cheese manufacturer" means any person, firm, corporation or cooperative association engaged in the production, handling, distribution or sale of cheese manufactured from retail raw milk.

[(16)] (18) "Safe and suitable ingredients" are food ingredients generally recognized as safe, as referenced in 21 CFR [184.1] 184 and 21 CFR 186.

[(17)] (19) "Standardized milk and milk products" or "milk or milk products" means products for which a standard of identity has been established pursuant to 21 CFR 131.110.

Sec. 24. Section 22-129 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) The Commissioner of Agriculture or the commissioner's duly authorized agent shall prohibit the sale or offering for sale or distribution of any cheese, milk or other milk product which is insanitary or detrimental to health, and which has not been produced, processed, cared for or handled in the manner prescribed in this

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chapter and in chapter 431 and by the regulations of the Milk Regulation Board.

(b) The following are prohibited: (1) The sale, offering for sale or offering for barter or exchange any milk, milk product or cheese that is adulterated, (2) the adulteration of any milk, milk product or cheese, (3) the sale, offering for sale, offering for barter or exchange, manufacturing, distributing or processing any milk, milk product or cheese from any facility not licensed pursuant to section 22-229, or (4) the sale, offering for sale, distributing, offering for barter or exchange any milk for pasteurization, retail raw milk or retail raw milk cheese from any dairy farm not registered pursuant to section 22-172 or 22-173a.

(c) The provisions of this section shall not apply to the production of milk, milk products, raw milk or raw milk products and the manufacture of cheese for personal consumption or for consumption by immediate family members.

(d) Nothing in this section shall prevent the commissioner from seeking any other remedy provided by law.

(e) Any person who violates any order issued by the commissioner or the commissioner's duly authorized agent pursuant to this section shall, for a first violation, have committed an infraction and, for a second or subsequent violation committed within one year of a prior violation, be guilty of a class A misdemeanor.

Sec. 25. Section 22-211a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

The Commissioner of Agriculture may adopt, and from time to time revise and amend, regulations, in accordance with the provisions of chapter 54, necessary and appropriate to effectuate the policy and provisions of this part or any ruling or order issued hereunder. The

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commissioner shall have power to exempt from any regulation issued hereunder all dealers selling not more than three hundred quarts of milk per month. [The commissioner may adopt regulations which incorporate by reference the provisions of the federal Pasteurized Milk Ordinance promulgated by the United States Food and Drug Administration provided such regulations shall be consistent with any regulations adopted under section 22-133, and further provided such regulations may by reference specifically incorporate any future amendment to said ordinance.]

Sec. 26. (NEW) (*Effective October 1, 2009*) All milk dealers processing, handling, storing, distributing, transporting, selling or offering for sale, barter or exchange any milk, milk product or cheese shall comply with the sanitation, handling, storage and processing provisions of chapter 430 of the general statutes and any regulations adopted thereunder.

Sec. 27. Section 7-34a of the general statutes is amended by adding subsection (f) as follows (*Effective from passage*):

(NEW) (f) Notwithstanding the provisions of subsection (e) of this section, in addition to the fees for recording a document under subsection (a) of this section, from the effective date of this section until July 1, 2011, town clerks shall receive a fee of forty dollars for each document recorded in the land records of the municipality. The town clerk shall retain one dollar of any fee paid pursuant to this subsection and three dollars of such fee shall become part of the general revenue of the municipality and be used to pay for local capital improvement projects, as defined in section 7-536. Not later than the fifteenth day of each month, from the effective date of this section until July 1, 2011, town clerks shall remit thirty-six dollars of the fees paid pursuant to this subsection during the previous calendar month to the State Treasurer. Upon deposit in the General Fund, such amount shall be credited to the community investment account established pursuant to section 4-66aa, as amended by this act. The provisions of this

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subsection shall not apply to any document recorded on the land records by an employee of the state or of a municipality in conjunction with such employee's official duties. As used in this subsection, "municipality" includes each town, consolidated town and city, city, consolidated town and borough, borough, and district, as defined in chapter 105 or 105a, any municipal corporation or department thereof created by a special act of the General Assembly, and each municipal board, commission and taxing district not previously mentioned.

Sec. 28. Section 4-66aa of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) There is established, within the General Fund, a separate, nonlapsing account to be known as the ["land protection, affordable housing and historic preservation account"] "community investment account". The account shall contain any moneys required by law to be deposited in the account. The funds in the account shall be distributed every three months as follows: (1) Twenty-five per cent to the Connecticut Commission on Culture and Tourism to use as follows: (A) Two hundred thousand dollars, annually, to supplement the technical assistance and preservation activities of the Connecticut Trust for Historic Preservation, established pursuant to special act 75-93, and (B) the remainder to supplement historic preservation activities as provided in sections 10-409 to 10-415, inclusive; (2) twenty-five per cent to the Connecticut Housing Finance Authority to supplement new or existing affordable housing programs; (3) twenty-five per cent to the Department of Environmental Protection for municipal open space grants; and (4) twenty-five per cent to the Department of Agriculture to use as follows: (A) Five hundred thousand dollars annually for the agricultural viability grant program established pursuant to section 22-26j, as amended by this act; (B) five hundred thousand dollars, annually for the farm transition program established pursuant to section 22-26k, as amended by this act; (C) one hundred thousand

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dollars annually to encourage the sale of Connecticut Grown food to schools, restaurants, retailers, and other institutions and businesses in the state; (D) seventy-five thousand dollars annually for the Connecticut farm link program established pursuant to section 22-26l; and (E) the remainder for farmland preservation programs pursuant to chapter 422. Each agency receiving funds under this section may use not more than ten per cent of such funds for administration of the programs for which the funds were provided.

(b) Notwithstanding the provisions of subsection (a) of this section, from the effective date of this section until July 1, 2011, the funds in the community investment account established pursuant to said subsection shall be distributed every three months as follows: (1) Twenty per cent to the Connecticut Commission on Culture and Tourism to use as follows: (A) Two hundred thousand dollars, annually, to supplement the technical assistance and preservation activities of the Connecticut Trust for Historic Preservation, established pursuant to special act 75-93, and (B) the remainder to supplement historic preservation activities as provided in sections 10-409 to 10-415, inclusive; (2) twenty per cent to the Connecticut Housing Finance Authority to supplement new or existing affordable housing programs; (3) twenty per cent to the Department of Environmental Protection for municipal open space grants; and (4) forty per cent to the Department of Agriculture to use as follows: (A) Five hundred thousand dollars annually for the agricultural viability grant program established pursuant to section 22-26j, as amended by this act; (B) five hundred thousand dollars, annually, for the farm transition program established pursuant to section 22-26k, as amended by this act; (C) one hundred thousand dollars, annually, to encourage the sale of Connecticut Grown food to schools, restaurants, retailers, and other institutions and businesses in the state; (D) seventy-five thousand dollars, annually, for the Connecticut farm link program established pursuant to section 22-26l; and (E) the remainder to the agricultural

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sustainability account established pursuant to section 29 of this act. Each agency receiving funds under this section may use not more than ten per cent of such funds for administration of the programs for which the funds were provided, except the Department of Agriculture may also use such funds for the administration of farmland preservation programs pursuant to chapter 422.

Sec. 29. (NEW) (*Effective from passage*) There is established an account to be known as the "agricultural sustainability account" which shall be a separate, nonlapsing account within the General Fund. The account shall contain any moneys required by law to be deposited in the account. Moneys in the account shall be expended by the Commissioner of Agriculture for the purpose of providing agricultural assistance pursuant to section 30 of this act.

Sec. 30. (*Effective from passage*) (a) For purposes of this section:

(1) "Federal pay price" means the northeast monthly uniform price for milk at Hartford zone pursuant to the United States Department of Agriculture Northeast Federal Milk Marketing Order;

(2) "Milk producer" means a person, firm or corporation registered pursuant to section 22-172 of the general statutes; and

(3) "Minimum sustainable monthly cost of production" means eighty-two per cent of the baseline determined by the United States Department of Agriculture's Economic Research Service monthly average cost of production for a New England state.

(b) (1) Commencing on the date the first deposit is made into the agricultural sustainability account established pursuant to section 29 of this act and subject to subdivisions (2) and (3) of this subsection, a milk producer shall be entitled to a grant as specified in this subsection. For each month that the federal pay price is below the minimum sustainable monthly cost of production, the milk producer shall be

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entitled to an amount equal to the dollar amount such federal pay price was below the minimum sustainable monthly cost of production, multiplied by the amount of milk produced by such milk producer during such month. The Commissioner of Agriculture shall make such grants to such milk producers on a quarterly basis, beginning on the date three months after the first deposit is made into the agricultural sustainability account established pursuant to section 29 of this act. Such grant payments shall be made by the commissioner from said account. In the event the amount of available funds in said account at the time such quarterly grants are due is less than the aggregate amount of grants to which producers are entitled pursuant to this section, the commissioner shall distribute all of the funds in the account to such milk producers on a proportionate basis based on their relative levels of milk production.

(2) For purposes of calculating a grant due a milk producer pursuant to subdivision (1) of this subsection, each milk producer or handler, as defined in section 22-127 of the general statutes, as amended by this act, who receives milk from producers in the state, shall file with the Commissioner of Agriculture, in such form and at such times as said commissioner shall direct, information as to the amount of milk produced by each producer.

(3) Prior to receiving a grant pursuant to subdivision (1) of this subsection, a milk producer shall file with the Commissioner of Agriculture, in such form and at such times as said commissioner shall direct, proof that such milk producer has completed an energy audit, as defined in section 16a-38 of the general statutes.

(c) The provisions of this section shall terminate July 1, 2011.

Sec. 31. Section 22-26k of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

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(a) There is established a farm transition grant program which shall be administered by the Department of Agriculture. Matching grants shall be made to farmers [, agricultural not-for-profit organizations] and agricultural cooperatives for diversification of existing farm operations, transitioning to value added agricultural production and sales, and developing farmers' markets and other venues in which a majority of products sold are grown in the state.

(b) The Commissioner of Agriculture shall adopt regulations, in accordance with the provisions of chapter 54, for the administration of the program established by this section. Such regulations shall require the development of business plans by applicants as part of the application process.

Sec. 32. Section 22-26j of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The Department of Agriculture shall establish and administer a farm viability matching grant program to any agricultural not-for-profit organization, municipality, group of municipalities, regional planning agency organized under the provisions of chapter 127, regional council of elected officials organized under the provisions of chapter 50, regional council of governments organized under the provisions of sections 4-124i to 4-124p, inclusive, or group of municipalities which have established a regional interlocal agreement pursuant to sections 7-339a to 7-339l, inclusive, to further agricultural viability. Such grants may be used for the following purposes: (1) Local capital projects that foster agricultural viability, including, but not limited to, processing facilities and farmers' markets; [and] (2) the development and implementation of agriculturally-friendly land use regulations and local farmland protection strategies that sustain and promote local agriculture, and (3) the development of new marketing programs and venues through or in which a majority of products sold are grown in the state.

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Sec. 33. Section 22-111k of the general statutes is repealed. (*Effective July 1, 2009*)

Approved July 1, 2009